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Antiquities Violations and Site Protection Efforts on National Forests in Oregon and Washington



Studies in Cultural Resource Management No. 12

Carl M. Davis, 1993

STUDIES IN CULTURAL RESOURCE MANAGEMENT

Study Number	Title	Author
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2**	You May Have Something There. Identifying Historical Resources in the Pacific Northwest (1984) (Formerly titled 'Identifying and Assessing Historical Cultural Resources in the Pacific Northwest' 1978)	Stephen Dow Beckham
3*	Heceta House: A Historical and Architectural Survey (1980)	Stephanle Finucane
4	Cultural Resource Inventory Plans: Documenting Inventory Strategies (1983)	Carl M. Davis Susan H. Marvin
5	Over-Snow Logging: Analysis of Impacts to Lithic Scatters (1985)	Frances M. Philipek
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12	Antiquities Violations and Site Protection Efforts on National Forests in Oregon and Washington (1993)	Carl M. Davis

* Out-of-print

** On the cover of the 1984 reprint, the author's name is misspelled as Beckman

*** On the cover of this volume, some were inadvertently misnumbered as No. 7

Antiquities Violations and Site Protection Efforts on
National Forests in Oregon and Washington

By
Carl M. Davis

with contributions by
Tom Russell
and
Carola Stoney

Pacific Northwest Region
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ABSTRACT

This report is a summary of all prosecuted misdemeanor and felony antiquities violations that occurred on National Forest lands in Oregon and Washington from 1978 through 1992. It further describes current archaeological site protection efforts in Region 6 of the USDA Forest Service and highlights programs and tools available to National Forests that are implementing site protection measures. By providing these data, this report should encourage and assist archaeologists, law enforcement officers, and land managers in recognizing and pursuing potential antiquities violations at the field level.

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INTRODUCTION

The diverse landscape of Oregon and Washington has been the homeland of American Indian peoples for millenia. Today, this long human occupation is evidenced by thousands of ancient campsites and villages, fishing stations, hunting blinds, stone tool quarries, rock art panels and other archaeological remains. Having survived the ravages of time and nature, these archaeological sites are important sources of scientific information about past lifeways and environment, and many have deep cultural and religious significance to contemporary American Indian tribes.

During the past 90 years, the federal Congress has passed historic preservation legislation which regulates the Government's own activities at archaeological and historical sites. These laws have ultimately become the basis for "cultural resource management" (CRM) programs in federal agencies such as the USDA Forest Service. However, until recently, this same legislative attention was not given to regulating the activities of the American public at archaeological sites, despite the vandalism, artifact collecting and site looting that was taking place. Of some ten major pieces of historic preservation legislation that exist today, only two laws, the Antiquities Act of 1906 and the Archaeological Resources Protection Act of 1979 (as amended), specifically control the public's legitimate and illegitimate activities at archaeological sites.

The Antiquities Act of 1906 was the first attempt to regulate the public's actions at archaeological sites on public land. But even in the early 1900's, its weak criminal provisions were of little deterrence to artifact collectors and the law was not widely enforced for various historical factors. Foremost among these was simply the lack of knowledge and appreciation of ancient American Indian cultures by a predominantly Euroamerican society. This lack of public awareness, the abundance of readily visible archaeological sites on public lands, and a lingering "frontier" ethic that public resources were there for the taking, all conspired to establish artifact collecting as a legitimate pastime, if not vocation, throughout the American West.

Some 70 years later, the growth of modern archaeology eventually shifted attention to the problem of artifact collecting and looting on public land. The blatant destruction of archaeological ruins in the American Southwest led to the passage of the Archaeological Resources Protection Act (ARPA) of 1979. This law, and its subsequent 1988 amendments, strengthened the criminal penalties for artifact looting and trafficking. Not surprisingly, ARPA was first used in the American Southwest where, until recently, the problem of "pothunting" was thought primarily to lie. Much of the USDA Forest Service's effort in the Southwest Region is well documented in a variety of Government reports and academic papers (e.g., Green and Davis 1980; McCallister 1979, 1980).

Until recently, the magnitude of the artifact theft problem in the American Southwest overshadowed other regions of the United States, including the Pacific Northwest (Schalk 1988). However, successful casework in Oregon and Washington over the last decade is reversing this situation and public awareness about archaeological site looting is at a record high. The archaeological looting issue is now routinely covered by the regional newspaper and television media. Education films, videos, posters and displays about archaeological site depredation are widely used by federal agencies. Concerned archaeologists and agency managers can now avail themselves of a variety of regional and national cultural resource protection training courses.

Unlike the American Southwest, however, Pacific Northwest antiquities violations and ARPA casework are not documented in a single source that is widely available to the public, government personnel and the academic community. Instead, these data are now found in a variety of court briefs, newspaper clippings, internal agency reports, and meeting papers. As a result, a popular case "mythology" and much misinformation exists. This report is an attempt to rectify this situation by summarizing all of the known antiquities violations and ARPA prosecutions on Forest Service lands in the Pacific Northwest Region (6).

Some mystery surrounds antiquities cases in this Region because they represent a relatively unknown area of law and often come to light in casual or unusual ways. Thus, the case summaries are presented in

narrative fashion in the hopes of providing insight into how antiquities violations have come to be reported and investigated in the Pacific Northwest. This writing style will hopefully serve to encourage archaeologists and law enforcement officers working in the field to pursue incidents and leads, however benign or vague.

As further information, the last section of this report outlines the cultural resource protection program in Region 6. It specifically describes various investigatory and educational tools that are available to all National Forests in Oregon and Washington who are embarking on their own cultural site protection campaigns.

Finally, this report is biased toward prehistoric site looting because this archaeological site class was the target of looters and vandals in the antiquities cases described in this report. However, historic cultural resources, such as homesteads, mining towns, and early wagon roads, are protected under the same federal antiquities laws, and in view of the intense public interest in the history of the "old west", these sites will undoubtedly play a role in future ARPA investigations on National Forest lands in the Pacific Northwest.

HISTORICAL BACKGROUND

The history of archaeological site protection and antiquities legislation in the United States is thoroughly documented in a variety of sources (e.g., Carnett 1991; Collins and Michel 1985; Green and Davis 1981; Hutt et al. 1992; Rogers 1987; Smith and Ehrenhard 1991) and need not be repeated here. However, the development of cultural site protection program in the Pacific Northwest is important to summarize below because it provides a historical context for the antiquities violation section that follows.

Until very recently, the following scenario was the popular perception of archaeological site looting and artifact theft in Oregon and Washington: recreationists and casual hobby collectors were the primary source of artifact collecting throughout the Pacific Northwest. Artifacts had minimal monetary value and, therefore, few people were involved in collecting solely for financial gain. The severe digging was done in the 1930's-1960's before anyone knew any better and, in any case, extensive collections were mostly amassed from sites on private land. Finally, according to this thinking, "amateur archaeologists" and collectors were closely aligned with professional archaeologists and worked in the best interests of science and historic preservation.

The role that casual, weekend arrowhead collecting has played in archaeological resource depredation in the Pacific Northwest is important to acknowledge (see Schalk 1988) but the scenario of benign resource abuse depicted above is now being brought into balance with the fact that archaeological theft has a commercial aspect, is on-going, has a devastating effect, and occurs frequently on public land (Davis et al. 1991). This change in perspective reflects the growing sophistication and concern about preserving American Indian history and cultural remains throughout the United States (e.g., Cowley et al. 1989). In the Pacific Northwest, particularly in Oregon, this change is also the result of an increasingly aggressive and publicly visible protection campaign by the USDA Forest Service, Bureau of Land Management, Fish and Wildlife Service, and cooperating agencies such as the Oregon State Police (see Schalk 1991:212-213).

Despite a long history of archaeological site depredation in the Pacific Northwest, a survey of archaeological journal articles reveals that little serious professional attention was paid to this problem until the 1960's. The emerging national environmental movement of the late 1960's focused attention on archaeological resource conservation (Rogers 1987). By the mid-1970's, journal articles appeared which lamented the threatened state of archaeological resources in Oregon (e.g., Grayson 1976; Newman 1971). However, this outcry of concern was not followed by concerted site protection efforts by any federal agency. In the early 1980's, the unsuccessful prosecution of the Bureau of Land Management's Jaques case (U.S. v. Jaques <D.OR 1983>) under the new ARPA law of 1979 was considered a setback for cultural resource site protection in this region by the Oregon archaeological community.

By the mid-1980's, the situation in the Pacific Northwest took a turn for the better. "CRM" had become well established in the federal bureaucracy and the time had come to turn attention to the long-time problem of "pothunting" on public land. The benign scenario of casual weekend collectors as the major source of the artifact theft problem was irrevocably altered as cases on the Deschutes, Siskiyou and Wallowa-Whitman National Forests, as well as on adjacent BLM lands, were prosecuted. Eleven felony and misdemeanor convictions under ARPA and other federal statutes, and citations under Forest Service regulations, has given archaeologists, law enforcement officers, and U.S. Attorneys the confidence to pursue agency cases. Today, the problem of illegal artifact collecting is recognized on a variety of National Forests and a handful of cases are now actively being investigated.

Within Region 6 of the USDA Forest Service, the factors that have contributed to current agency concern over archaeological site depredation are:

1. The cultural resource management program in Region 6 has matured to the point where archaeological sites have become understood and respected as resources with educational and interpretive value.
2. After a decade or more of intensive compliance inventories, Forest Service land managers and archaeologists have begun to change their focus to the evaluation, management and protection of the identified cultural resource base.
3. Increased American Indian participation in land and cultural resource management planning in Region 6 has focused greater concern on preserving and protecting sensitive areas and sites independent of archaeological concerns. This concern has been amplified by the recent passage of the Native American Graves Protection and Repatriation Act of 1990 and National Register Bulletin 38 which emphasizes consideration of sites with "traditional" cultural significance.
4. Demographic changes, population growth and the "urbanization" of the Pacific Northwest are changing traditional views of artifact collecting and American Indian culture to a greater local concern for preserving cultural resources and Indian heritage.
5. Agency law enforcement officials are becoming increasingly aware that archaeological site looting is part of a larger pattern of resource depredation on public lands that includes timber theft, arson and game poaching. Law enforcement has become seriously interested in archaeological theft cases.
6. The environmental movement's concern for protecting "non-commodity" resources has, as a spin-off, contributed to greater agency and public awareness of cultural resources values, as attested by their appearance in Region 6 legal appeals and environmental litigation.
7. Related to No. 6 above, the Forest Service in Region 6 is shifting its emphasis from a commodity-based organization to one focused on ecosystem management, recreation and resource stewardship. Consequently, cultural resource management figures prominently in both existing and new Forest Service programs such as Elderhostel and Passport in Time.
8. The growth of public interpretation in Region 6 has significantly increased cultural resource visibility and awareness. Intact cultural sites that are interpreted for the public have become important tourist attractions in Oregon and Washington and indirectly bolster local economies.
9. The regional media has become more interested in, and sophisticated about, reporting archaeological discoveries and American Indian issues, and has become an important ally in bringing the site protection message to the public (e.g., Preso 1989).

Other factors undoubtedly are responsible for bringing the archaeological site protection issue into public and agency focus in the Pacific Northwest. But those cited above provide the broadest context for understanding why an active archaeological site protection program is now as important to the Forest Service as meeting its project compliance obligations. In essence, these factors are fostering the transition from "project compliance management" to the actual management and protection of cultural resources in Region 6.

TABLE 1
 Prosecuted Antiquities Violations in Forest Service Region 6

Case Name	Date	Location	Defendants	Offense	Citation	Court Decision	Sentence
Cache Creek Case	1978	Hell's Canyon NRA Wallowa-Whitman NF	Stephen Sheridan David Osman Judith Holman	Looting rockshelter	1 count, 1361 1 count, 641, 1361 1 count, 2	Each pleaded guilty, reduced to misdemeanor counts	Each fined \$500, 1 year suspended & 1 year probation, 50 hrs public service
Peterson/ Elmore Case	1978	Gold Beach RD Siskiyou NF	Jeffrey Peterson Elizabeth Elmore	Looting house pit	1 count, 261.9g	Guilty plea	None
Delores Davis Case	1984	Gold Beach RD Siskiyou NF	Delores A. Davis	Looting house pit	2 counts, 470	Plea bargain to 1 misdemeanor count, 470	\$50 fine, suspended
Fields Case	1985	Fort Rock RD Deschutes NF	George P. Fields	Looting stone tool cache	2 counts, 470 2 counts, 641 1 count, 1001	Guilty plea to 1 felony count, 470.	2 years sentence all but 4 months suspended, 5 years probation, \$300 fine
Kelley Case	1985	Hells Canyon NRA Wallowa-Whitman NF	Patrick D. Kelley	Looting Ameri- can Indian burial	2 counts, 470	Guilty plea to 1 felony count, 470	5 years probation, restitution of damages (\$11,764), \$50 special assess- ment
Cache Creek 2 Case	1987	Hells Canyon NRA Wallowa-Whitman NF	Wayne Tjeolker Bob Kirkruft John Miller	Looting house pit 1 count, 261.9g	1 count, 261.9g 1 count, 261.9g	Trial, guilty Guilty plea Guilty plea	\$350 fine, probation \$200 fine \$200 fine
Crescent Case	1987	Crescent RD Deschutes NF	David M. Philo	Surface collect- ing open sites	1 count, 261.9h	Guilty plea	\$500 fine, suspend- ed

Prosecuted Antiquities Violations in Forest Service Region 6 (continued)

Case Name	Date	Location	Defendants	Offense	Citation	Court Decision	Sentence
Austin Case	1988	Deschutes NF Ochoco NF Burns District, BLM	Bradley O. Austin	Looting open sites & rockshelters	10 counts, 470 10 counts, 641 10 counts, 1361	Stipulated facts trial, 1 felony count, 470	2 years, all but 4 months suspended, 5 years probation, 400 hrs community service, \$50 court fee
Barker Case	1988	Private Land (Forest Service tip & assistance)	Michael Barker Corey Hollinger Paul Samuelson	Looting American Indian burial	1 count, ORS 97.70 1 count, ORS 97.70 1 count, ORS 97.70	Guilty plea Guilty plea Guilty plea	Juvenile probation, restitution of expenses
Cockrell Case	1991	Columbia Gorge National Scenic Area Forest Service	John R. Cockrell	Looting open sites	1 count, 261.9h	Guilty plea	\$250 fine, 1 month suspended, 1 year probation
Miller/Shoote Case	1991	Big Summit RD Ochoco NF	Richard Miller Dennis Shoote	Surface collection of open sites	1 count, 261.9h 1 count, 1001	Guilty plea Guilty plea	\$100 fine \$100 fine
261.9 = 36 CFR General Prohibitions, Forest Service Regulations, 261.9g digging, 261.9h removal		470 = 16 USC 470 Archeological Resources Protection Act of 1979	641 = 18 USC 641 Theft of Government Property	1001 = 18 USC 1001 Providing False Information to a Federal Officer	1361 = 18 USC 1361 Depredation of Government	2 = 18 USC 2 Aid and Abet in Commission of Crime	ORS 97.70 Protection of Graves Statute, Oregon

VIOLATIONS AND CASE NARRATIVES

by Carl Davis, Thomas Russell and Carola Stoney

This section details each prosecuted misdemeanor and felony antiquities violation in Region 6 of the USDA Forest Service as of January 1993 (see Table 1). Lumping together both simple Forest Service CFR violations with felony ARPA cases may seem to be mixing apples and oranges. However, for purposes of this report, the outcome of each violation is less important than the way in which each incident was reported and investigated. In this light, both the misdemeanor citations and felony cases have many parallels and, in fact, the difference between them may be only how aggressively some were pursued at case inception.

Sheridan, Osman and Holman Case

The first documented Forest Service cultural resources prosecution in Region 6 occurred in 1978 in the Hells Canyon National Recreation Area of the Wallowa-Whitman National Forest (see also Friedman <1981>). The antiquities violation took place at the Cache Creek rockshelter site which is accessible either by jet boat or an arduous four mile hike. Both the Oregon State Department of Fish and Game and the Forest Service had received frequent reports of illegal digging in the Canyon. Later, an outfitter-guide reported to the Oregon State Department of Fish and Game that he had observed three people digging for arrowheads at Cache Creek. This information was passed on to the Forest Service who decided to investigate the situation. After consultations with the Forest Service archaeologists and the Assistant U.S. Attorney in Portland, the following day law enforcement officers from the Forest Service and the Department of Fish and Game set out for Cache Creek on jet boat.

Two of the defendants, Stephen Sheridan and Judith Holman, met the Fish and Game officers and Rick Flesher, a Forest Law Enforcement Officer (LEO), at the water's edge near Cache Creek. Initially, the defendants admitted to fishing without a license but denied digging for artifacts. Further questioning and a search of their packs produced obsidian flakes. The entire group returned to the archeological site where they observed the third suspect, David Osman, actively digging in the rockshelter. Warning screams by Holman from a high point overlooking the site allowed Osman to hide his equipment and artifacts but not before he was photographed in action by an alert officer. Osman's equipment and artifacts were soon recovered and seized as evidence by the law enforcement officers. Officer Flesher gave each of the defendants pay-by-mail citations under 36 CFR 261.9(e). Osman was allowed to stay in the canyon because the law enforcement officers did not have the authority to remove him under the issued citation.

LEO Flesher reported the incident to Forest Zone Special Agent, J. R. Walker, who, in turn, discussed it with a new Assistant U.S. Attorney, Kris Rogers in Portland. He was convinced that the case needed more attention in light of the extensive damage that had been documented by Forest Service archaeologists Janet Friedman and Edward Friedman, and a local archaeologist, Ruthann Knudson from the University of Idaho, two days after the citations had been issued. The archaeologists estimated that some \$180,000 worth of damage had occurred based on comparable scientific data recovery costs. As a result, the citation was quickly dismissed, despite efforts by the defense attorney to have his clients plead guilty, pay the fine and settle the matter. Assistant U.S. Attorney Rogers then visited the site with Forest officials to familiarize herself with the archaeological site and the damage that had occurred.

A Federal Grand Jury indicted all three defendants on felony charges under Title 18 U.S.C. 641, 1361 and 2, Theft of Government Property, Destruction of Government Property, and Aiding and Abetting. Assistant U.S. Attorney Rogers was deliberate in not citing them under the Antiquities Act of 1906 in view of the 1974 *Diaz* decision that ruled the act "fatally vague" by the Ninth Circuit Court of Appeals. In addition, the federal theft and destruction charges carried penalties far more severe than the \$500 maximum fine and 90-day sentence in the Antiquities Act.

Minor technical difficulties arose when the Government attempted to place a monetary value on the artifacts that were stolen by the defendants (Friedman 1981). Case archaeologist, Janet Friedman, contacted a wide range of people about establishing artifact values, including other professionals, museum personnel, and known artifact dealers. In the end, a Government contractor estimated the value of the 222 stolen artifacts to be \$282, based on their worth as part of a larger frame of well-made arrowheads. Special Agent Walker found evidence of a commercial aspect to the defendants' artifact collecting activities but this could not be fully documented.

Trial was set for June, 1978, in Portland, Oregon, in order to give the prosecution an opportunity to present its case before a jury that would be potentially less-biased than one composed of eastern Oregon residents. The Assistant U.S. Attorney had proposed to the Defense Attorneys that she would consider dropping Sheridan and Holman to a misdemeanor charge but maintain felony charges for Osman, who was found actively digging. However, the defense attorneys indicated that Osman would then testify that Sheridan and Holman were doing exactly the same thing he was doing. Fearing that this action would put the entire case at risk, the Government allowed the three to plead guilty to lesser charges. Osman pleaded guilty to one misdemeanor count each of theft and destruction of government property; Sheridan pleaded guilty to one misdemeanor count of destruction of government property; and Holman pleaded guilty to one count of aiding and abetting destruction of Government property. The Government recommended a five year sentence, with all but six months suspended, six months probation, and 100 hours of public work at archaeological sites in Hells Canyon.

In August, 1978, the three defendants were sentenced before Federal Magistrate, George E. Juba. Having pleaded guilty to the misdemeanor charges cited above, the defendants were fined \$500 apiece. Each was given a one year suspended jail sentence, and one year of probation. Each was required to serve 50 hours of public service in Hells Canyon.

Peterson and Elmore Case

The mountains and river valleys of southwestern Oregon were as attractive to American Indian peoples as the deep Snake River canyon country of northeastern Oregon. Hence, not coincidentally, this area too has a long history of artifact looting of ancient housepit villages and rockshelters. The first reported antiquities violations there occurred in July of 1978, when a Forest Service fire guard stationed at Marial on the Gold Beach Ranger District observed a man and woman, with a screen and shovel in hand, hiking toward Blossom Bar on the Rogue River. The Fire Guard immediately notified Forest Service River Patrol officers, who traveled to Blossom Bar.

When the officers arrived, they located the prehistoric village site and observed the shovel and screen near a freshly dug hole. A search of the area for the defendants found Peterson and Elmore, both residents of Grants Pass, swimming in Blossom Creek. The two River Patrol officers then interviewed the pair who admitted to digging for and collecting artifacts. Their screen, shovels and artifacts were seized by the officers and both were cited on the spot for violation of 36 CFR 261.9(g), with a mandatory appearance before the Magistrate. During their court appearance, both pleaded guilty and Magistrate Michael R. Hogan assessed no penalty.

Davis Case

The defendant, Delores Amanda Davis, had been seen digging in a prehistoric housepit site, named Shasta Costa Village, on the lower Rogue River throughout 1984 (Davis et al. 1987; Steinfeld 1985). Located on the Siskiyou National Forest in southwestern Oregon, the site had been known since 1935 and had been illegally dug for artifacts for many years by local residents. Davis' digging throughout the summer

of 1984 did not arouse the suspicion or concern of the numerous river rafters, jet boaters, hikers and fishermen who used the busy river corridor. However, her actions were reported to the Forest Service by a local resident of the community of Agness, who feared for the safety of his grazing cattle on the terrace where she was digging. He also approached her individually to warn her that her actions were illegal and that he was concerned about his cattle.

Davis was apparently undaunted by this incident and continued to dig, later bragging to local residents of nearby Agness, Oregon, about the tools, pipes and bowls she was finding. Her method was to tunnel into the steep river bank, thus gaining some protection from casual observers but primarily to avoid digging up some 15 feet of overburden on the terrace to reach the artifact-bearing deposit.

The stock owner's concern eventually precipitated an investigation by the Forest Service. The site was examined by Forest Service archaeologists and posted with a federal Antiquities sign. Later, federal officers, Ed Forbes and Stan Kiser, photographed her in the process of illegal digging. Residents of Agness were interviewed about the extent and nature of her digging at the Shasta Costa site.

However, it was not until one of her excavation tunnels collapsed on top of her during the summer of 1984 that the investigation was brought to a head. Another individual working with her (for which no incriminating evidence was produced) rushed her to medical attention at the Medical Center in Gold Beach, Oregon, where she was treated for a broken pelvis. The attending physician asked her about the cause of injury, to which she replied that she had been digging for artifacts at the Shasta Costa village site. Soon thereafter, based on hospital admittance records, a Forest Service photograph showing her digging, the testimony of local residents who heard her brag about her artifact finds, and the abundant site damage, Delores Davis was indicted under two felony counts of violating the Archaeological Resources Protection Act of 1979 (ARPA).

David Brauner, an anthropology professor with Oregon State University, was contracted to provide an archaeological site damage assessment, as required by ARPA. Brauner and Forest Service archaeologist, Tish Steinfeld, estimated that Davis was responsible for excavating some 227 cubic meters of culture bearing deposit at the Shasta Costa village. Using the comparable costs of scientifically removing the same amount of metric volume, Brauner estimated the damage at \$118,000. The Forest Service was unable to recover the artifacts removed from the site, suggesting that the artifacts had been traded or sold commercially.

The case was reviewed by the U.S. Attorney's Office and scheduled for jury trial in Eugene, Oregon. However, Federal Judge Owen Panner was concerned about the time and expense involved in trial involving a little known area of law: artifact theft. He was particularly skeptical in light of the long witness list offered by the Defense Attorneys. Judge Panner also thought that the Government's case was weak in three areas: first, the defendant could be tied to only one of three illegal excavation areas ("loci") used in the site damage assessment prepared by Brauner. None of the artifacts putatively stolen by the Defendant were ever recovered by the Forest Service. Nor was proof offered showing that she had sold or traded them. In view of this situation, the Government agreed to plea bargain the violation to a misdemeanor under ARPA. She was given a \$50 fine, all of which was suspended.

Fields Case

Artifact collecting is an established way of life in the juniper and sage country of central Oregon. Thus, when George Phillip Fields arrived at the Deschutes National Forest Supervisor's Office late one afternoon in July of 1984, his excitement about showing a local agency archaeologist several "spear points" from an artifact cache that he knew about was hardly unusual. What was unusual was his absolute insistence that he take Forest Service officials that day to see the site. Fields was concerned that a logging crew who was

operating in the area would dig up the artifacts in the site before the Government stopped their illegal activity. As the Forest Archaeologist at the time, I (Davis) contacted the Recreation Assistant for the Fort Rock Ranger District and together we traveled to the site, where we met several District Law Enforcement Officers and the Timber Sale Contract Inspector.

Upon our arrival at a remote area near China Hat Butte, it was evident that a bulldozer had dug deep and extensive holes around a large slash-pile in a harvested timber sale unit. The logging crew was gone. Fields immediately showed the group the deep, mechanically-excavated holes where the cache had been located, as well as pumice fragments and other natural materials that he believed to be human bone and artifact fragments. At this juncture, the Forest Special Agents advised Fields that he was the only person in possession of artifacts and therefore ought to turn them over to the Forest Service, along with any other artifacts he had in his possession.

The next day, Fields met with Special Agents Rick Flesher and Tom Russell, and Forest Recreation Staff Officer, Don Pederson, and returned an additional 135 bifaces or "spear points" to the Forest Service. Fields provided abundant and surprising information about artifact collecting in the area but maintained that the logging crew was responsible for the bulk of the site damage near China Hat. He further claimed that he had no other artifacts from the site. Agents Russell and Dennis Shrader were assigned to the case and began investigating the crime scene and Fields' background. Archaeological testing confirmed the presence of a prehistoric tool cache, though only a few remaining specimens were found. In addition, some \$7500 worth of damage was estimated to have occurred at the site (Davis 1984). Of note, many of the bifaces which Fields returned to the Forest Service showed fresh breaks that could not be matched with other pieces in the confiscated collection. This suggested that more specimens were in either Fields' or someone else's possession.

Following a seven month investigation, in March 1985, Agents Russell and Shrader set up the potential purchase of the suspected stolen artifacts through an established informant. The "sting" or buy/bust operation was initiated by introducing Fields to an undercover agent who represented himself as a rancher and artifact collector who was interested in purchasing artifacts. The Federal Bureau of Investigation and the Internal Revenue Service arranged for "buy" money and participated in the sting. In fact, Fields, who was no stranger to trafficking in stolen artifacts, had already struck a deal with an East Coast artifact dealer for the collection, but the immediacy of fast cash was irresistible and Fields agreed to sell 240 artifacts to the undercover agent for \$6500. The sting operation was successful and Fields was charged with five felony counts, including two counts of Theft of Government Property, two of violating the Archaeological Resources Protection Act, and one count of Giving False Information to a Federal Officer. A handful of artifacts were also recovered from several members of the logging crew (who resided in Idaho) and several local residents (friends of Fields) but these parties were not indicted.

In May, 1985, Fields pleaded guilty to one felony count of violating ARPA—the first such conviction in Oregon. He was sentenced by U.S. District Court Judge James Burns in August. Fields received a two-year prison sentence with all but four months suspended. In addition to the jail sentence, he received five years probation and a \$300 fine.

Kelley Case

By 1985, an awareness was growing in Oregon that archaeological site theft was frequently done in conjunction with other illegal activities. Nowhere was this better demonstrated than during the Kelley case. Patrick Kelley, who resided in LaPine, Oregon, did contract work with the Forest Service during much of the year. In the off-season, he operated an outfitting and guiding service. An undercover agent with the State of Idaho Outfitter and Guides Board was investigating Kelley for conducting illegal outfitter and guide operations on the Snake River within the Hells Canyon National Recreation Area, Wallowa-Whitman

National Forest. During the course of one illegal trip, Kelley mentioned to an undercover agent that he had dug for artifacts in an Indian burial site on the Idaho side of the Snake River. He further admitted that he had uncovered human bones and had taken some artifacts home with him. He particularly described a large spear point which he said he had appraised at \$1000.00. This information later served as the basis for a search warrant of his residence.

Kelley's remarks were conveyed to the Forest Service and another trip was arranged with the Idaho State undercover agent and a Forest Service agent who posed as a wealthy rancher interested in buying American Indian artifacts. In April, 1985, they returned with Kelley to the burial site that he had previously looted. On a high terrace above the Snake River, Kelley dug into the site and allowed himself to be photographed by the undercover officers while he removed a human skull from one of the graves. At the end of the trip Kelley was arrested in Lewiston, Idaho by Forest Service special agents. In conjunction with the arrest, a variety of other prehistoric artifacts and agency interpretive signs, were seized during the service of a search warrant on Kelley's home in LaPine, Oregon, by Forest Service agents and law enforcement officers.

In June 11, 1985, Kelley was indicted by a federal Grand Jury in Boise, Idaho, on two counts of violating ARPA, one count of Theft of Government Property and one count of Destruction of Government Property. Kelley's wife, Leorane, was also charged with aiding and abetting her husband. Forest Service and University of Idaho archaeologists estimated the damage to the grave sites at \$14,000 (Reagan 1985). The archaeologists further concluded that the burials dated to about A.D. 1100. The Nez Perce Tribe of Idaho at Lapwai toured the looted site, wrote letters of support and participated in the courtroom proceedings which generated strong judicial and public interest in the outcome of the case.

On January 4, 1986, Kelley pleaded guilty to one count of violating ARPA in federal court in Boise, Idaho. This was the first ARPA felony conviction in Idaho. The three other felony charges were dropped, as was the aiding and abetting charge against Leorane Kelley. In June, 1986, Kelley was sentenced to five years probation and was ordered to pay \$11,764 restitution and a \$50 special assessment. Initially, federal prosecutor's moved to forfeit Kelley's jet boat but the judge would not agree to both forfeiture and restitution. Therefore, the Forest opted for restitution in order to repair the damage to the site. Kelley was not disbarred from other contracts on federal land. The burials have since been returned to the Nez Perce Indian Reservation at Lapwai.

Tjoelker, Kirkruft and Miller Case

The prehistoric riches of Hells Canyon attract the eye of even casual visitors, as illustrated by the Tjoelker, Kirkruft and Miller Case. Daniel Leen, an archaeologist working under contract with the Forest Service, was recording cultural resources on the Idaho side of the Snake River during the summer of 1987. Working one weekend in the Canyon, he observed Mr. Tjoelker and two companions digging in a housepit at Cache Creek on the Oregon side of the Snake River. Reacting quickly, Leen remained hidden from view, photographed their activity and reported the incident to the Wallow-Whitman Forest Archaeologist on the following Monday. An investigation by Forest Law Enforcement Officer, Will Novitske, revealed that three men were from Eugene, Oregon, and had traveled to the Cache Creek area on a fishing trip. Upon questioning, they responded to Novitske that since fishing was poor, out of boredom they started digging in the rockshelter with sticks and had only recovered a few chipped stone flakes.

The case was referred to the U.S. Attorney's Office in Portland, Oregon, for possible prosecution under ARPA. However, Forest archaeologists determined that the damage was minimal, consisting of light scratching across the shelter surface. Further, the men did not appear to have gone to Cache Creek with the intent of digging in archaeological sites. Therefore, the U. S. Attorney declined to file charges under ARPA. As a consequence, the Forest Service cited the three men for violation of 36 CFR 261.9g. Two

of the defendants settled out of court and were given fines of \$200.00 each and probation. Mr. Tjoelker pleaded not guilty in Magistrate's court in Pendleton and was found guilty by U. S. Magistrate Arthur Barrows, fined \$350.00 and placed on probation.

Philo Case

The shorelines of the mountain lakes in the central Oregon Cascade Range are well-known haunts of Indian artifact hunters. Until the mid-1980's collectors could collect arrowheads and tools from the lake shore without fear of interference by Forest Service employees working throughout the area. Thus, in summer of 1987, David Philo was searching the shorelines of Crescent Lake when he was surprised by a Forest Law Enforcement Officer who confiscated his artifacts and issued him a citation for violating 36 CFR 261.9(h). Philo pleaded guilty and received a suspended \$500 fine from Magistrate Gray in Bend, Oregon. Of note, Magistrate Gray admonished Philo to take the message back to his friends that illegal artifact collecting would not be tolerated on National Forest land in central Oregon.

Austin Case

The Austin case broke during early summer of 1987 with a confidential informant's report to Deschutes National Forest Special Agent, Tom Russell, that a person named Brad Austin was conducting illegal digs at archaeological sites on Forest lands. Soon thereafter, a Forest Service employee mentioned to Agent Russell that a house trailer was parked in the pine forest on the Fort Rock Ranger District. Agents Russell and Dennis Shrader visited the trailer and encountered a single individual who identified himself as a friend of Brad Austin. Austin, however, was not home and the agents left, advising the individual that the trailer was illegally parked and should be moved.

The situation was suspicious enough that the agents decided to conduct surveillance of the trailer using a District law enforcement officer. Day-time surveillance enhanced this suspicion when Austin was observed exiting the trailer with a pan of dirt, dumping it outside, and returning to the trailer. Unfortunately, because of the busy summer fire/arson season, neither the District nor the Forest had the manpower to pursue further surveillance.

Later in the summer, Special Agent Russell received a second report from a Forest employee that Austin's trailer was parked in another location on the Deschutes National Forest. Both day and night surveillance of the trailer site was then conducted by Forest law enforcement personnel. Despite the hot summer heat, Austin was only observed outside the trailer when he exited with a pan of dirt which he dumped on the ground. Night-time surveillance yielded more concerns about agents being inadvertently detected than information because of Austin's habit of hiking with his dog during the night. In addition, nothing could be made of the various noises being emitted from the trailer. After several days of surveillance, District Law Enforcement Officer, Roger Crisafi, approached the trailer after Austin had departed for a day. Upon Officer Crisafi's approach to the trailer, he observed a metal excavation screen through the trailer window.

At this juncture, Forest Special agents believed there was enough "probable cause" on the suspicion of illegal artifact digging to go the U.S. Attorney's Office in Eugene, Oregon, for a search warrant. Following consultation with Assistant U.S. Attorney, Jeff Kent, Forest Service agents executed the search warrant at Brad Austin's trailer on September 9, 1987. Austin, who owned a revolver, was initially reluctant to come out of the trailer until federal officers drew their weapons. Austin was then taken outside where he was cited for illegal camping as the search began. A heavily locked back room in Austin's trailer, guarded by a federal antiquities sign, contained a massive array of prehistoric American Indian artifacts. Over 3000 artifacts in glass frames, tin cans, labeled file cabinets and wood boxes were seized by federal officers. In addition, a variety of digging equipment (including the screen observed in the window), books about archaeology

and artifact collecting, Austin's personal "field log", and a set of Deschutes National Forest Soil Resource Inventory (SRI) maps, marked by Austin with the locations of archaeological sites, were also removed.

A large forensic team was required to process the mass of evidence seized under the search warrant. Thus, a team of archaeologists from the Forest Service and Bureau of Land Management, headed by Jill Osborn, then the Deschutes National Forest archaeologist, and Carl Davis of the Regional ARPA task force, was immediately put together. Austin's notations in the SRI maps were coded to show archaeological sites and the density of artifacts found there. Austin's field log indicated the dates when he visited the various areas marked on the SRI maps, and contained outline drawings of many of the artifacts found at each location. The artifacts themselves were labeled to correspond with the field log. Some 186 artifacts could be specifically correlated to entries in the field log. The remaining were left in containers and file drawers according to geographic location (e.g., "Luna Butte", "Squaw Creek"). As with many artifact collectors, Austin was concerned about documenting, albeit crudely, the general location of his finds.

By correlating Austin's field data, the archaeological team identified some 17 locations where field searches were required to determine the extent of actual on-the-ground disturbance (Osborn and Davis 1988). Because Austin's activities were widespread, areas were given a priority ranking based on Austin's own coding system showing what areas had been most productive for his artifact collecting. When teams located looted sites, their first job was to await processing for criminal evidence by Forest Service special agents. Then the sites were processed by the archaeological teams who mapped, photographed, and described all illegal excavation holes and completed condition assessments of back dirt piles. Both of Austin's trailer sites were also part of this field survey.

From September to December of 1987, the archaeological team identified a total of ten archaeological sites which showed recent evidence of illegal digging. Of these, seven were located on the Deschutes NF, two were located on the Crooked River National Grasslands, Ochoco NF, and one was found on the BLM-Prineville District. On the Deschutes NF, all six were extensive buried and surface "lithic scatters" associated with rock overhangs and lava flows on the Fort Rock Ranger District. The sites showed varying degrees of destruction, ranging from the removal of less than a cubic yard of dirt at the Rocky Top site to some 30 cubic yards of fill at the Luna Lava site. In total, on the Deschutes NF, Austin removed some 97 cubic yards of fill to collect artifacts, which translated to a conservative \$66,753 worth of damage.

In addition to this forensic work, Forest Service investigators contacted all private land owners where Austin's maps and records indicated he had collected artifacts. None of the land owners had given Austin permission to collect on their property. Austin's photograph collection was also used to identify illegal digging at several sites.

On February 10, 1988, a federal grand jury in Eugene, Oregon, returned a 14 count indictment charging Bradley Owen Austin with five felony and three misdemeanor violations of ARPA, five violations of Theft of Government Property, and one count of methamphetamine possession. In a superseding March 10 indictment, Austin was charged with eight additional counts of Destruction of Government Property and three counts of Theft of Government Property. Austin pleaded not guilty to both indictments and was released without bond for arraignment. In June, the discovery of two new damaged archaeological sites led to two additional charges of violating ARPA, two counts of theft of government property, and two counts of damaging government property. In total, Austin was indicated on 30 counts of violating ARPA, Theft of Government Property, and Destruction of Government Property.

Austin was set to go to trial in U.S. District Court in Eugene, Oregon, on July 12, 1988. However, in a negotiated settlement, Austin agreed to a "stipulated facts" trial in which no evidence is presented before a U.S. District Court Judge, and to which the defendant agrees that the facts presented by the prosecution could be proved. This legal maneuvering preserves certain appeal rights that would be forfeited through

a plea bargain. The Government agreed to dismiss other charges in the case in return for Austin's stipulation to a single felony count of violating ARPA.

A stipulated facts trial was held on September 14, 1988 in Eugene before U.S. District Judge Malcom Marsh. Austin acknowledged charges presented by Assistant U.S. Attorney Jeff Kent that he illegally removed artifacts from the Lava Luna archaeological site on the Deschutes National Forest. On November 14, 1988, U.S. District Judge James Burns sentenced Austin to a two year prison term, with all but four months suspended, five years probation, 400 hours of community work after his release from prison, and a \$50 court fee. Austin's appeal for leniency was rebuked by Benson Heath of the Confederated Tribe of Warm Springs, who said that Austin's actions showed a "disregard of my people's ancestors".

Austin immediately took his case to the 9th U.S. Circuit Court of Appeals, as had been predicted by the prosecution. In May 1990, some six months after Austin's sentencing, the Ninth Circuit rejected Austin's appeal, with Circuit Judge Thomas Tang noting that academic freedom (as protected by the 1st Amendment) did not protect Austin's excavations because Austin "had not demonstrated that he is affiliated with any academic institution, nor has he posited how his curiosity is otherwise academic" (U.S. v. Austin 1990). Tang also rejected Austin's claim of vagueness by pointing out that the ARPA law did give fair notice that the activities he was engaged in were in fact illegal. Thus, thanks to the Austin Case, the ARPA law survived its first major legal test under review of the Ninth Circuit Court of Appeals. The U.S. Supreme Court declined to consider a further appeal.

Soon after the appeal was rejected, Austin again initiated legal tactics to prevent him from serving his sentence. Austin's attorney's filed an appeal to the federal courts that argued that Austin would lose his job if he were sent to federal prison. A hearing was subsequently held in June, 1991, at which time U.S. District Court Judge James Burns ruled that Austin would serve his 120-day sentence at home with an electronic monitor to prevent him from leaving home except to go to work. Judge Burn's ruling did not affect the rest of the sentence.

Austin's legal maneuvering did not end with the sentence reduction. In the spring of 1992, Austin filed a motion in U.S. District Court for the return of all seized items on the ground that he had completed his sentence, that no authority existed for retention of the seized items, and that he was therefore entitled to the artifacts. In response, Assistant U.S. Attorney Jeff Kent filed a response claiming that the government was the owner of the property, for reasons cited in the stipulated facts trial, and moved that the government either enter an order declaring this property to be the government's or formally forfeiting the property to the government. In an effort to avert taking the Austin case back to federal court, during the winter of 1993, Austin's Public Defender and the U.S. Attorney's Office negotiated an agreement whereby all artifacts specifically tied to federal land, and those removed from private land where Austin had not received permission to collect, were retained by the Forest Service. Artifacts whose original origin could not be determined by the Government, and Austin's personal belongings recovered during the search and seizure, were returned to Austin.

Barker, Hollinger and Samuelson Case

Casual artifact collecting frequently leads to more destructive forms of "pothunting", as the Barker Case attests. Although the violation occurred on private land, the Forest Service's initial involvement in the investigation make it worth describing for purposes of this report.

During the spring of 1988, two LaPine, Oregon, teen-agers, Michael Barker and Corey Hollinger, were looking for arrowheads near Fort Rock when they noticed bones protruding from the ground. The skeleton, which was later estimated by forensic scientists to be about 200 years old, was taken home to be assembled by the two juveniles. Apparently, a dispute erupted over which of the teens owned the skeleton,

and it was smashed to pieces in the ensuing arguments. Soon thereafter, Forest Service officials and the State Police received anonymous tips that a human skeleton was being stored in the garage of a LaPine teenager, Paul Samuelson. The teens were subsequently contacted at their homes and the skeleton was turned over to the State Police until it could be determined on whose land the skeleton was found.

A few years prior, a situation like this would have gone unnoticed in central Oregon communities. But heightened awareness created by the Fields, Kelley and Austin cases, coupled with the fact that the case involved human skeletal material and teen-agers, made this a newsworthy story. Local news articles pondered the legal ownership of the skeleton and the possible legal outcomes. Tribal members from both the Confederated Tribes of Warm Springs and the Burns Paiute were involved in the case and the ultimate disposition of the skeletal remains.

Following judicial review and continued media coverage (e.g., Hirschman 1988), the Deschutes County District Attorney's Office charged all three teens with one count each of violating the Oregon's Protection of Indian Graves statute, ORS-97.740 - 750. Each was sentenced to one year of juvenile probation and restitution of expenses.

Cockrell Case

The Columbia River Gorge was one of the most densely inhabited areas of prehistoric North America. The early history of Oregon archaeology largely concerns the amateur archaeological society and professional investigations of various Columbia Gorge sites. Looting of villages and burial sites has a long tradition as well. The creation of the Forest Service managed Columbia Gorge National Scenic Area (NSA) in 1987 has provided more archaeological presence in the Gorge than that provided earlier by the Army Corp of Engineers or the occasional research archaeologist. Thus, a growing awareness exists of the looting problem and more reports of problems are beginning to come in, as exemplified by the Cockrell case.

John Cockrell was observed screening dirt on the eastern side of Miller Island in the Columbia River by Oregon State Police (OSP) Trooper, Tim Gallaher, on February 17, 1991 (Mike Boynton, personal communications, 1991). Troopers Gallaher and Robert Cannon set up surveillance, and established that the suspect and his son had set up camp on the eastern end of the island. Forest Service LEO, Mike McCaslin, met with the two State Troopers at the surveillance site, following contact from from Columbia Gorge NSA archaeologist, Mike Boynton. The trio then waited for Boynton to arrive before being transported to the island by an OSP boat. Cockrell was contacted at his camp at 8:30 p.m., where it was observed by the officers that he was slightly intoxicated and was armed with a concealed .38 caliber revolver.

Cockrell admitted that the shovel and wire mesh screen located near him in the camp were his belongings. However, he did not admit that he had done any screening with them, nor did he admit to finding any Indian artifacts. Cockrell gave the officers permission to search his personal belongings and his boat. Three artifacts were found in the side pocket of a folding beach chair that Cockrell had been sitting in when the officers arrived. Officer McCaslin then seized the three artifacts, screen and shovel as evidence, and issued a citation for violating 36 CFR 261.9g. The Forest Service did a background check of Cockrell and found that he did not have a history of artifact collecting. Cockrell appeared at Magistrate's Court in Vancouver, Washington, on May 14, 1991, and pleaded guilty to the charges. He was fined \$250 and given a suspended one-month jail sentence and one year on probation.

Miller and Shoote Case

Until recently, casual artifact collecting on National Forests in central Oregon was a common activity that mostly went unnoticed by both Forest visitors and agency employees. However, in July, 1991, a Fire Management Officer on the Paulina Ranger District, Ochoco National Forest, received an anonymous

phone call reporting that two individuals were digging for arrowheads on the south end of Little Summit Prairie (Fielder 1991). The suspects were said to be driving a red Chevy pick-up with Washington State license plates. The following morning, a Forest Service employee spotted the vehicle heading west on a Forest road and contact was made by Special Agent, Linda Fielder, in Deep Creek Campground early that afternoon.

Richard Miller and Dennis Shoote, both of Vancouver, Washington, admitted to being at Little Summit Prairie the previous day but flatly denied having done any digging for artifacts. When Agent Fielder requested that they show their location during the previous evening, Miller's grandfather (also named Richard), attempted to shield the two from further questioning by saying that neither of the boys were at Little Summit Prairie. Law enforcement officers then requested that the elder Miller stay near the campfire. Questioning continued and the younger Miller and Shoote admitted to being all over the area.

At the Special Agent's request, the younger Miller turned over a plastic bag containing some 300 obsidian flakes which he had stashed in his tent. Additional questioning revealed that both suspects had been surface collecting, but not digging, along the road. A consent search of their tent by Agent Fielder did not yield further artifacts. Agent Fielder advised the two that further investigation would be conducted before any action was taken. She left the camp to see if she could find any signs of recent digging near the south end of Little Summit Prairie. Having found none, she returned to the campground and asked that the suspects stop by the Ochoco National Forest Supervisor's Office on their return the following day to the Vancouver/Portland area.

Both of the Millers and Shoote reported to Forest headquarters and gave a statement in reference to the incident. Miller again stated that they did not remove any arrowheads from Forest lands, though he freely admitted that they were looking. He stated that he had been stopped by a Forest Service District archaeologist for collecting arrowheads about four years ago in the same area so he was well aware of the illegality of his actions. This was verified during the interview by the same District Archaeologist.

Miller also stated that his Grandfather's denial about their location the previous day was only an attempt to protect them. In fact, he, his grandfather and relatives had hunted arrowheads six or seven times at Little Summit Prairie. Miller also reported that he had collected arrowheads on July 1, from late afternoon until dark, and had hidden them in his grandfather's mobile home, which was now parked at his uncle's residence. His grandfather knew that the arrowheads were hidden in the motor home. Shoote's statement corroborated Miller's in all details. The elder Miller continued to maintain a picture of innocence: the boys had told him they were looking for arrowheads but did not know the activity was illegal. He did not see either putting artifacts in the motor home.

The younger Miller agreed to return to the Ochoco National Forest all of the artifacts that he had collected from the Forest during past visits and which were housed in his parent's home in Vancouver, Washington. Agent Fielder said she would follow-up this arrangement when he got home.

Richard Miller's Uncle, Bill Moffitt, was subsequently interviewed at his home in Prineville, Oregon, based on his nephew's information that he had arrowheads potentially from Little Summit Prairie. Since Moffitt's wife was a Forest Service employee, she was first asked to cooperate in the investigation. Both Moffitt and his wife showed the federal officers three large wall displays of artifacts, and an coffee can of obsidian pieces in his garage, which he said came from the Lakeview area and not the Ochoco National Forest. Moffitt invited the officers to search the house but such effort was deemed unnecessary.

The younger Miller and Dennis Shoote were subsequently cited for violating 36 CFR 261.9(g) and 36 CFR 1001. Both pleaded guilty and were fined \$100 each.

CASE DISCUSSION

Eleven prosecuted antiquities violations on National Forest land in the Pacific Northwest Region is an admittedly small sample from which to draw major conclusions about artifact theft and site looting. However, with this sampling problem in mind, some preliminary summations and observations are germane:

Of the eleven prosecuted antiquities violations described above, five involved citations issued under the "General Prohibitions" section of USDA Forest Service regulations (36 CFR 261.9 (g) and (h)). The remaining six were prosecutions under federal statutes including 16 U.S.C. 470 (ARPA), 18 U.S.C. 641 (Theft of Government Property), 18 U.S.C. 1361 (Depredation of Government Property) and Oregon's Protection of Indian Graves statute (ORS-97.740).

In terms of geographic location, three violations occurred in western Oregon (including the Cockrell citation in the Columbia Gorge), five occurred in central Oregon, and three took place in eastern Oregon and specifically, Hells Canyon. This distribution of antiquities violations is closely correlated with regions of the Pacific Northwest long recognized for their rich archaeological resource base. However, the antiquities casework to date is the product of the knowledge levels and aggressiveness of the local archaeologist, law enforcement officer, and land manager and thus, the identification of looting "problem areas" based on the current pattern of ARPA cases and citations in the Pacific Northwest probably is more apparent than real.

The eleven violations involved a total of 19 individuals, of whom three are women and the remainder are men. In addition, three of the 19 persons are juveniles (Barker, Hollinger and Samuelson). Citation and case information indicates that all of the individuals were either from the location in Oregon where the violations occurred or were within a days drive and were familiar with the area, such as Hells Canyon. None of the citations/cases involved persons residing outside Oregon or Washington, although several incidents (e.g., Fields Case) included the investigation of people from other states (Idaho) who were not indicted. These data support the idea that the artifact theft and looting problem is local and "home bred", although the commercial aspect is also stimulated by regional and national artifact buyers (e.g., the East Coast artifact buyer peripherally involved in the Fields case).

Activities correlated with the violations include fishing (N=2 violations), camping (N=3) and hiking/swimming (N=2). It is important to note that in four cases (Austin, Barker et al., Davis and Fields), there was no correlated recreational activity or explanation for their activity other than artifact collecting. Austin's parked trailer provided some "cover" for his collecting activities but the trailer's isolation and changing locations, as well as Austin's own movements, immediately aroused suspicion of illegal activities. Not surprisingly, this information indicates that recreational activities legitimately surround casual surface collecting, and even minor digging, while major artifact thieves use recreation and other Forest activities (e.g., cutting firewood, hunting) only as a cover. However, a key point is that these determinations came about only after personal contact, investigation and surveillance by federal officers rather than by casual observation and second-guessing of motivations from a distance.

To date, all violations involve collectors and artifact "diggers" while the upper echelon of the artifact trafficking network, including buyers and traders, has remained unaffected. The principals in nearly all cases are local men who were engaged in other outdoor recreational activities. Most appear to have been involved with artifact collecting as a hobby. Fields, Kelley and perhaps Austin and Delores Davis, appear to have been involved with artifacts as a business enterprise, though the extent of their commercial activity is unknown. For example, the artifacts illegally excavated by Delores Davis have never come to light. The full extent of Fields' involvement in the illegal artifact market was never completely investigated due to budgetary constraints. Austin's exact motives for his extensive collecting remain obscure. Thus, the appeal of popular artifact network typologies (e.g., "casual collectors", "hobby collectors", "commercial digger"

< see McCallister 1991:95-98 >) to help characterize suspects should be tempered in the field by the reality that this information frequently comes to light AFTER investigations and not before.

Five violations were the result of being observed in the act of collecting or superficial digging by either alert Forest Service employees or the public. These incidents resulted in citations issued under 36 CFR 261.9 (g) or (h). The remaining seven violations were the result of leads and confidential tips by Forest Service employees or the public, Forest Service follow-up, and lengthy casework. The Delores Davis case involved both observation of her illegal digging, as well as information from the community about her interest in artifacts. The seven violations that came about as a result of tips ultimately lead to felony indictments under the ARPA law and other federal statutes.

These data invite several comments. First, citations issued on the spot provide a valuable form of deterrence that has been little used by the Forest Service in Region 6 but has proven effective elsewhere in southeastern Oregon such as the Malheur Wildlife Refuge (Carla Burnside, personal communications, 1992). However, as attested early on from the Sheridan, Osman and Holman Case, issuing citations without the benefit of background checks and investigation puts at risk opportunities to develop more comprehensive cases. Since both the motives and sophistication of artifact collectors are not always apparent, especially in field situations, law enforcement officers must use caution in issuing citations and, when they do, follow through with a background check to insure that the incident should not be pursued as an ARPA case, (as, for example, was done during the Cockrell case).

Secondly, the breakdown of who provided the case tips or leads is interesting. Of the eleven violations, three were reported by the Forest Service personnel, five were anonymous reports from the general public and two were reported by other law enforcement agencies. Finally, Phil Fields inadvertently informed on himself. These statistics reinforce the fact that Forest Service employees are the agency's "eyes and ears" on the ground. Of equal importance, however, they also show that the public is now a very concerned partner in reporting archaeological crimes and that other law enforcement agencies are cooperative allies. Also, as exemplified by the Fields Case, agency personnel must remember that occasionally the public deliberately offers misleading information that should none-the-less be investigated.

The antiquities violations described in this report involve a minimum of 17 archaeological sites. This figure only includes those sites specifically described in the citations or various case reports. It does not take into account archaeological sites that showed evidence of illegal digging but could not be directly tied to the defendants in question. Also, some of the 33 CFR 261.9 citations issued for surface collecting undoubtedly involved more than one site.

The archaeological sites affected by either collecting or looting reflect the diversity of site types in the region. Eleven violations took place at one rockshelter site in Hells Canyon National Recreation Area, three housepit villages in southwestern Oregon, Hells Canyon and the Columbia River Gorge, one American Indian burial in Hells Canyon and one in central Oregon, and twelve buried "lithic scatters" (prehistoric camps) and one stone tool cache in central Oregon. Whether the cases involved casual artifact collecting or intensive digging and looting, the targeted sites represent the most scientifically important and fragile site types in the Pacific Northwest. Thus, the popular notion that collectors and looters are leaving the "best" sites (and certainly human burials) alone in deference to both scientific and American Indian interests is not borne out by the evidence from Oregon thus far.

Archaeological site damage assessments were completed for five cases (Sheridan et al., Davis, Fields, Kelley, and Austin) prosecuted under federal felony statutes (Friedman 1981; Davis 1985; Osborn and Davis 1988; Regan 1985; Steinfeld 1985). One damage assessment was completed externally by a University professor (Davis case) while the remainder were developed by Forest Service archaeologists. All estimates were based on the comparable costs of scientific value or "data recovery". Damage estimates ranged from a low of \$7500 for the Fields case to a high of \$180,000 for the Sheridan, Osman and Holman Case. In total, some \$386,500 worth of damage was estimated to have been done to the 14 archaeological sites involved in these five cases.

This cumulative damage estimate is very low by 1993 standards for comparable costs of scientific data recovery and site restoration. For example, the Fields case estimate was "low-balled" out of fear of alienating the U.S. Attorney with a resource damage estimate and procedure (the comparable cost of data recovery) that was difficult to understand. Thus, data recovery costs were figured at the very low end of private industry scale (\$1000 per cubic meter). In retrospect, this caution was unnecessary. Today, there is enough understanding of the ARPA law and damage assessments in Oregon's judicial system to warrant using higher private industry rates (\$2000 per cubic meter or higher) for archaeological "data recovery", although it may wise to curtail some types of ancillary technical analyses to avert the perception of inflating costs.

All but the Delores Davis violation involved the confiscation or seizure of American Indian artifacts. The majority of the seizures involved the willing consent of the defendants, though consent searches of tents and personal belongings were necessary to confiscate artifacts for the Sheridan Osman and Holman, Cockrell, and Miller-Shoote violations. The Kelley and Austin cases required federal warrants to conduct search and seizures of a private residence in LaPine, Oregon and a trailer illegally parked on the Deschutes National Forest. To reiterate a common theme, all cases are the result of the law enforcement officer(s)' willingness and persistence in making make personal contact and proceeding with artifact searches and confiscations based on the suspicion of artifact theft.

The five cases prosecuted under felony statutes (Sheridan et al., Davis, Fields, Kelley, and Austin) involved the confiscation of some 3,842 individual American Indian artifacts, with the bulk of this total attributed to the Austin case. Artifacts included chipped stone, bone, and ground stone tools, as well as ornaments associated with American Indian burials. The exact number and type of artifacts confiscated by federal officers during the issuance of citations was difficult to determine from the available information. It is clear that the total number is small and the artifacts are mostly stone waste flakes and a few projectile points or arrowheads.

Many of the artifacts involved in these cases are beautiful specimens but none fall outside the range of artifacts common to the Pacific Northwest. However, rumors of spectacular "effigy" pieces associated with several looted chipped stone tool caches abound in central Oregon but the veracity of this information has yet to be determined. None-the-less, data generated from the Fields investigation do suggest that these may be the kinds of Pacific Northwest artifacts which, once found, are quickly brought to the attention of commercial dealers and are discreetly trafficked into private museums and home collections. Archaeologists should therefore be cautious in their conclusions about what artifacts are "typical" of their area during an ARPA investigation.

With the exception of the early Sheridan, Osman and Holman case, the commercial value of confiscated artifacts never entered into any damage assessment due to the problems of deriving realistic prices (see Hutt et al. 1992:63-71 for a thorough discussion of site damage assessments). Despite the public and media appeal of stolen artifacts, the sheer number of artifacts confiscated had little bearing on the ultimate disposition of the major antiquities cases in Region 6. For example, Bradley Austin, who stole some 3000 artifacts, received a sentence comparable to Phil Fields, who stole some 400 artifacts and Patrick Kelley, who stole less than 200. Thus, the high media and public interest in stolen artifacts must be balanced with, and not over-ride, the damaged site(s) itself nor the concern for completing thorough and competent site damage assessments in a timely manner.

In four of the felony ARPA cases, the defendants were indicted under multiple federal charges. For example, a combined total of some 41 counts were charged against Delores Davis, Phil Fields, Patrick Kelley and Bradley Austin for violating the ARPA law (16 U.S.C. 470), both the Theft and Depredation of Government Property statutes (18 U.S.C. 641 and 18 U.S.C. 1361, respectively) and Providing False Information to a Federal Officer (18 U.S.C. 1001). Ultimately, these charges ultimately led to three felony (Fields, Kelley, Austin) and one misdemeanor (Davis) convictions under the ARPA law.

The multiple charges strategy was originally used because of the continued skepticism of the viability and constitutionality of the ARPA law. During the Austin case, the multiple indictments were attacked by defendants as being "vindictive" but so far the practice has been supported in federal court. The ARPA law was recently upheld in the 9th Circuit Court of Appeals as a result of the Austin case and there have been more ARPA convictions throughout the country. Thus, the need use multiple charges to achieve a successful antiquities conviction may not be necessary in the future.

None of the major ARPA cases in Region 6 moved quickly through the criminal justice system. They typically took from one to five years (e.g., Austin) to be investigated and fully resolved in court. At the case development level, this slow pace had positive benefits because it allowed for a full investigation of all circumstances surrounding the case (e.g., the commercial trafficking aspects of the Fields Case). However, this pace became more critical following Grand Jury indictment in the Austin case because Brad Austin was released without bond for arraignment. It was suspected, though not proven, that this freedom provided Austin with further opportunities for illicit digging for artifacts. Thus, it becomes incumbent on the local case agent, the Regional case coordinator, and the forensic archaeologist to work closely with the U.S. Attorney's Office to ensure that an ARPA investigation and case proceeds through the busy criminal justice system.

With the exception of the Austin case, all were resolved through plea bargaining. The "stipulated facts" trial in the Austin case was heard before a judge rather than a jury. This situation has had both positive and negative implications. A plea bargain agreement is an admission of guilt and the product of solid case preparation. However, a felony conviction in a jury trial would potentially increase public support for anti-looting efforts (provided the case is not lost) and would perhaps demonstrate to its skeptics that the ARPA law can indeed pass the litmus test of a jury trial in the Pacific Northwest.

As Table 1 illustrates, there is wide variability in the sentences and fines given for the eleven antiquities violations described in this report. For example, Bradley Austin was given a two year prison sentence with all but four months suspended, a long (five year) probationary period, confiscation of property and a fine, which is on par with other property and personal injury crimes (Jeff Kent, personal communication, 1991). However, Austin's sentence was reduced to four months of house arrest following months of legal haggling and a reduced sentence hearing, during which time Austin was released on his own recognizance. Penalties may become more severe as the public and officials in the judicial system are better educated about ARPA crimes. Regardless of sentence, however, perhaps the most productive way to look at the Region 6 antiquities case to date is that ARPA (and related statutes) are effective and that these prosecutions have sent a serious message to artifact looters that archaeological site protection is here to stay. In fact, as noted by Shalk (1991:213), Oregon is already known as one of three States with a significant number of archaeological prosecutions occurring each year. This was recently amplified by an outfitter and guide in southwestern Oregon who reported that artifact collecting has abated due to the Forest Service's aggressive protection efforts there (Janet Joyer, personal communications, 1993).

The major prosecuted ARPA cases involved the cooperation, support and assistance of American Indian tribes and other state and federal agencies including the Oregon State Police, the Oregon State Historic Preservation Office, Commission on Indian Services, Bureau of Land Management, Federal Bureau of Investigation, the Internal Revenue Service, the Oregon Department of Fish and Game, and various state and county and local law enforcement officials. At the case level, ARPA cooperation runs high. All cases have involved some level of Tribal participation but through letters of support and a strong presence at various court hearings, the Confederated Tribes of Warm Springs and the Burns Paiute in Oregon, and the Nez Perce Tribe in Idaho, were essential to the successful ARPA felony prosecutions of both Pat Kelley and Brad Austin. The importance of Tribal and inter- and intra-agency support, information sharing and alliances cannot be overstated.

REGIONAL APPROACH TO SITE PROTECTION

In a recent archaeological site protection publication, Jeremy Sabloff (1991: Preface A) reflected on the fact that the number of "tangible victories" (antiquities prosecutions) in the United States pales in comparison to the large literature devoted to lamenting archaeological resource looting and recommending protection programs and measures. In fact, this literature is somewhat overwhelming, intimidating, and often contradictory to those people charged with site protection at the field level. Thus, this volume eschews another reiteration of ARPA concerns and "must do's" in favor of a basic description of current site protection effort in Region 6, and the tools and skills that are now available to implement archaeological site protection on the ground.

In historical context, throughout the early 1980's archaeological resource protection issues in Region 6 were handled by individual Forests, with direction and assistance provided by the Regional Archaeologist. Forest Special Agents sought answers to investigatory questions from their counterparts working in the American Southwest or in other agencies. This created a somewhat invisible approach to cultural resource protection in the Pacific Northwest but was understandable in view of the few antiquities cases that had come to light.

By 1986, the Regional Office was involved in providing almost daily assistance to a variety of National Forests facing site protection issues ranging from monitoring, to signing, to forensic work at looted archaeological sites. By this time, the regional and local media had elevated archaeological depredation to an important, if not confusing, resource issue in Oregon. Naturally, the concerns about the cost of combating looting was on the minds of many agency managers.

Region 6 ARPA Task Force

During 1986, a national "activity review" was held in Region 6 to assess all phases of the Regions cultural resource management program. One outcome of that review was a strong recommendation by the Washington Office (WO) to form a regional task force to provide information and direction to field personnel dealing with this major resource protection problem. Thus, in 1986, the Regional Office formed a "Archaeological Resource Protection Act (ARPA) Task Force". Its charter was to: 1) provide Region-wide education programs about archaeological site depredation; 2) improve internal communications and act as an information "clearinghouse"; and 3) provide technical assistance to archaeologists and law enforcement officers involved with antiquities violations and ARPA casework.

The task force was originally composed of five members who had a range of experience with archaeological site depredation cases in Idaho and Oregon. The original task force members included Jill Osborn (Deschutes NF), Tom Russell (Deschutes NF), and Dennis Shrader (Deschutes NF). Carl Davis was assigned to be the task force "group leader" under the supervision of Regional Archaeologist, Jim Keyser. Jill Osborn is no longer a member but Rich Grandalski, Regional Case Coordinator, has been added. The task force primarily meets its agenda through frequent information sharing, regular participation in the regional ARPA training course, and completion of individual assignments.

The ARPA task force provides technical assistance to National Forests involved in site protection issues and casework. This has largely been implemented through the recreation "Master Performer" program which specifically funds two members (Davis, Russell) of the task force to accomplish these tasks. Over the past six years, task force members have been called upon to help process artifact collections recovered during search and seizures and to lead teams conducting site damage assessments. Investigatory assistance has been provided through a variety of phone calls and field trips.

A related role is coordination of ARPA investigations and information within the Region since artifact thieves pay little attention to administrative boundaries. Inter- and intra-agency coordination has been admirable on a case-specific basis but has been more difficult at the program level among other state and federal agencies. One goal of the task force is to enhance agency coordination and cooperation by serving as a case and a information "clearinghouse". It is important to note that this effort is similar to that being undertaken for timber theft and arson cases on National Forest lands, indicating that antiquities violations are now being treated as a priority concern in this region.

Regional Site Protection Plan and Field Studies

Initially, a Regional Site Protection Strategy (Davis and Keyser 1988; Appendix A) was developed in 1986 by the task force to assess the extent of the artifact theft/looting problem on National Forest lands in Oregon and Washington. Its purpose was to provide a systematic approach to acquiring information about the artifact theft problem in Region 6 while at the same time allowing individual Forests flexibility on how this should be done. To date, through special Regional funding provided by several national Recreation initiatives (e.g., "America's Great Outdoors"), some nine studies have been initiated and/or completed as of spring 1993 (Table 2).

These reports give much needed perspectives on the extent and nature of site looting in Region 6. On one hand, some 75% of the known rock shelters on the Deschutes National Forest in central Oregon have been looted to some extent (Clark 1990). In contrast, its neighbor to the south, the Fremont National Forest, shows comparatively little resource damage in the area sampled (Banek 1989). In another case study, the Naches District of the Wenatchee National Forest reported a wider than expected range of cultural site damage, including artifact theft (Martinson et al. 1989).

TABLE 2
Funded Site Protection Studies in Region 6

<i>Forest</i>	<i>Assessment Area</i>	<i>Author</i>	<i>Status</i>
Deschutes NF	Forest-wide	Clark 1990	Completed
Fremont NF	Forest-wide	Banek 1989	Completed
Umpqua NF	Forest-wide and North & South Umpqua Rivers	Churchill et al.1990	Completed
Wallowa-Whitman NF	Hells Canyon NRA	Leen 1990	Completed
Wenatchee NF	Naches RD	Martinson et al. 1989	Completed
Gifford Pichot NF			On-going
Siskiyou NF			On-going
Umatilla NF			On-going
Winema NF			On-going

In short, hard data are now beginning to replace anecdotal and speculative information about the extent of site looting--a perspective that is important to land managers, judicial officials and the media. As Tom King (1991:27) noted in an unpublished report for the Society of American Archaeology, the quality and utility of these "quick and dirty" Pacific Northwest studies vary and none have been done with exceptional scientific rigor. However, King also suggested that, at least initially, this approach may ultimately be more cost-effective and fruitful than highly sophisticated modeling and field studies advocated in the Southwest. In light of this critique, it is hoped that the general prescription for these field studies described in the Regional Site Protection Plan (Davis and Keyser 1988; Appendix A) will be translated into well-designed, sampling-based field studies that provide viable data about the nature and extent of site looting on each National Forest in this Region.

"Thieves of Time" Table-top Display and Brochure

Using data from an informal "site condition" survey done by the Regional Office in 1988, a traveling "Thieves of Time" table-top exhibit was built to describe the then known extent of archaeological site looting in Oregon and Washington. The exhibit is suitable for display in Forest Service offices and agency events such as State Fairs and the Regional "Cultural Resource Celebration" traveling show (further described below). The display has proven to be an effective public education tool, especially at Ranger District offices.

As a compliment to the traveling display, and to meet long-term public information demand in Forest Service offices, the task force also completed a "Thieves of Time" brochure whose cover is taken from the Regional "ARPA" poster (which, in turn, was adapted from the Southwest version). Now in its second printing, the brochures are an important medium for introducing the public to Region 6 site protection concerns. The brochures are intended to be available in every Forest Service administrative office in Region 6.

Site Protection Videos

In 1987-1988, the ARPA task force produced a 36 minute videotape entitled, "Vanishing Legacy", to serve primarily as an internal training film for agency personnel. The video focuses on the range of cultural site depredation problems in Region 6, including surface artifact collecting, vandalizing historic sites, and commercial artifact digging and looting. The film features a variety of Forest Service employees and American Indian representatives at numerous locations in Oregon. The training video has been well received and has become an important component of Ranger District and seasonal employee orientation meetings.

With the help of the Oregon Archaeological Society (OAS), a shorter, 28 minute version of version of this film was produced for showing on the Oregon Public Broadcasting network and at civic and club meetings in local communities. This video eliminates some of the detail pertinent to agency employees but retains the overview of the looting issue in Oregon and includes additional footage describing the OAS's efforts to help agencies such as the Forest Service combat looting and vandalism.

In addition to "Vanishing Legacy", two other videos have been produced by the Regional Office and Task Force as public education tools. The first is "Gus Finds an Arrowhead", a short and comical video aimed at primary and secondary grade school children which is also warmly received by adults. A public service announcement entitled "Eyes" was also produced for showing on local TV stations. Unlike the "Vanishing Legacy" videos, however, conversations with Region 6 archaeologists suggest that neither "Gus" nor "Eyes" have received the air play they deserve, especially in areas such as southwestern Oregon where site protection efforts are intensifying on many fronts.

Regional Site Protection Training Course

Over the past ten years, Region 6 has sent a large number of archaeologists and law enforcement officers to the "ARPA" training course at the Federal Law Enforcement Training Center (FLETC) course in Marana, Arizona. Given the broad perspective and expertise provided there, the Region continues to endorse the national course as important training.

By the late 1980's, however, both archaeologist and law enforcement officers in Region 6 began expressing the need for another tier of field-focused ARPA training tailored specifically to the site depredation problem in the Pacific Northwest. To meet this concern, in 1989 the ARPA Task Force developed a 40-hour regional training course. Then, in 1990, the ARPA task force held a two day "short course" near Bend, Oregon. This session was attended by 20 archaeologists and law enforcement officers from two National Forests. It included a half-day class session devoted to describing the ARPA law and basic forensic and investigatory procedures. An afternoon field session included crime scene investigation, "site damage assessments", and suspect contact exercises. Ironically, the archaeological site selected for the field exercise was "hit" by looters the night before the class, giving real meaning and purpose to the investigatory and forensic work on the following day.

In April of 1991 and 1992, the full 40-hour Region 6 "Field Training in Archaeological Resources Protection (ARPA)" course was offered in Bend, Oregon. The classes were instructed by ARPA task force members, Assistant U.S. Attorney, Jeff Kent, anthropologist C. Melvin Aikens (University of Oregon), District Ranger George Chesley (Deschutes National Forest), Public Affairs Officer Greg McClarren (Deschutes National Forest), forensic specialists Stuart Mitchell and Tom Rayl (U.S. Fish and Wildlife Service National Forensics Laboratory, Ashland, Oregon) and newspaper reporter Tim Preso ("Bend Bulletin"). The course included two and a half days of class instruction, a mid-week exercise called "The ARPA Game", and a day and a half of site touring and field exercises. Both courses emphasized Pacific Northwest antiquities violations and ARPA cases and stressed case development, case investigative strategies, judicial relationships, forensic support, and working with the public and media.

A total of 70 people attended the two courses, representing 14 different National Forests and 3 other agencies (whose attendance was restricted to facilitate Forest Service needs). The class included a nearly equal mixture of archaeologists and special agents/law enforcement officers, a handful of agency managers, and two American Indian tribal representatives. The high marks given to the course by its participants each year have been critical to its continuation in a time of tight budgets.

The training course is a large commitment of time and energy but one that has been worth the effort in several ways. First, a regional approach to ARPA training brings the lessons learned at FLETC into tangible focus. By utilizing the information and experiences gained from completed and on-going antiquities cases and incidents in northern California, Idaho, Oregon and Washington, both archaeologists and law enforcement officers gain insight into the peculiarities of case recognition and confidence and competence in case development. Secondly, the course has been a forum for networking and information sharing among widely scattered agency personnel who heretofore have treated their cases as "isolated problems". Today, most of the on-going antiquities investigations in Region 6 are being conducted by recent graduates of the ARPA field training course.

"Windows on the Past"

As stated abundantly in various cultural resource/site protection documents (see Society for American Archaeology <1990> for a diverse but concise reiteration of this important theme), public education is the greatest weapon we have to combat archaeological site depredation. Certainly, what a task force, the archaeological profession or public agencies can do to promote aggressive law enforcement pales

in comparison to what they can do for resource conservation in the arena of education, interpretation and public participation. Since these topics are well covered in various documents (e.g., Smith and Ehrenhard 1991), only those efforts germane to Region 6 are highlighted here as additional tools to know about and add to the site protection arsenal.

Under the framework of the national "Windows on the Past" program, Region 6 has focused intensively on developing over 100 cultural resource interpretative sites on National Forests throughout Oregon and Washington. These sites are described in the second (and revised) printing of the "Windows on the Past Interpretative Guide to Pacific Northwest History" which is on sale in Forest Service offices. These interpretative projects and accompanying brochures and educational materials have been developed with cultural resource capital investment, challenge cost-share, and Regional challenge grant funds.

In a related vein, the Region has embraced the national "Passport in Time" program as a systematic and meaningful way to involve the public in archaeological and historical projects. To date, a total of 20 projects have been conducted on National Forests in Oregon and Washington. They range from archaeological excavations to oral histories and rehabilitation of historic structures. They have involved a total of some 350 official PIT volunteers and were visited by some 15,000 people representing 35 States and 8 foreign countries.

In 1989, the Region developed a "Cultural Resource Celebration" traveling road show of 16 permanent exhibits, plus a compliment of some five to 15 local (Celebration-specific) displays, about regional prehistory and history. Between 1989 and 1992, the Celebration has been held in six locations, including Bend and Portland, Oregon; Boise, Idaho; and Puyallup, Spokane and Yakima, Washington. In total, the Celebration thus far has been viewed by over one million visitors. The Celebration is scheduled for four communities in 1993, and two in 1994.

In summary, when an antiquities case first breaks in a local community, a common outcry of the local artifact collecting faction is that the archaeological profession and land managing agencies are largely to blame for the problem. They argue that little information about prehistory is available in public displays and that most artifacts are likely stored in dark basements of far-away University campuses. Thus, by their activities they are serving the public in a way that the archaeological profession is not. Despite the self-serving nature of this position, it has, until recently, had some basis in fact because little quality cultural resource interpretation was offered by the Forest Service to local publics in Oregon and Washington. In the last five years, however, the regional ARPA task force and the Windows on the Past program have rectified this situation and have given local archaeologists the tools and means to address this criticism.

Inter-Agency and Tribal Cooperation and Support

At the field and case levels, strong inter- and intra-agency working bonds have formed among many agency archaeologists, law enforcement officers, and land managers involved with site protection in Oregon and Washington. Today, various federal (and state and county) agencies in sub-regions of the Pacific Northwest cooperate in aerial surveillance and "fly-overs", public education programs (e.g., "Passport in Time", "Windows on the Past" celebration), and antiquities prosecutions such as the Austin case. Individual Ranger Districts and Forests should be cognizant of this cooperative approach to archaeological site protection lest they lose opportunities for participation.

A question frequently asked by participants in the Region 6 ARPA field course is what degree of ARPA coordination exists with other federal agencies at the regional and national levels. To date, a fair assessment is that programmatic cooperation at these levels is not as strong as it might be. In fact, federal agency site protection programs are often more competitive and fragmented than cooperative and integrated. As one regional example, in the Pacific Northwest the activities of the Forest Service Region 6 ARPA task force are not yet integrated with those of the Bureau of Land Management's "Operation

SAVE*. At the national level, the federal ARPA training provided by FLETC has not been coordinated with various regional ARPA courses that are being developed out of local necessity. With the recent addition of Regional Case Coordinator, Rich Grandalski, to the ARPA task force, the Forest Service will be better able to strengthen Forest Service ties with other agencies and programs. Optimistically, the "grassroots" spirit of cooperation and support in archaeological resource protection at the field level should eventually overcome the resistance and indifference at other levels of government.

Cooperation and support between the Forest Service and American Indian tribes is also expanding in the arena of archaeological site protection. Communication with Indian Tribes regarding ARPA matters is left to individual Forests based on the government-to-government relationships that have been established. There are no set internal procedures for Tribal relations during an ARPA investigation but the general guidelines for effective communication are well explained in the Region 6 *Desk Guide to Tribal Government Relations (Boynton 1991:27-30). Clearly, a balance must be struck between the need to conduct legal forensic work during an ARPA investigation and Tribal concerns for the proper treatment of cultural artifacts and human remains (e.g., Preso 1989: Part 2). So far, in Region 6, Tribal and Forest Service relationships have been excellent in regards to antiquities cases.

SUMMARY AND CONCLUSIONS

This report has summarized existing information about all prosecuted antiquities violations on National Forest lands in Oregon and Washington and has described site protection efforts in the Pacific Northwest Region of the USDA Forest Service. Even as this report was being written, however, two antiquities cases were in the hands of U.S. Attorneys in Oregon and Washington, and other investigations are in progress. Thus, the information herein will require updating in the near future.

Meanwhile, a handful of successful antiquities case prosecutions is hardly cause for celebration. Indeed, Region 6 is still at the recognition stage of the archaeological looting problem and recent field data suggest that the problem is intensifying in areas such as southwestern Oregon. Much work remains to be done, and quickly.

In a positive light, in addition to both misdemeanor and felony convictions under the ARPA law and other statutes, the antiquities cases that have been investigated and prosecuted in Oregon have generated a wealth of information about the nature and extent of "pothunting" in the Pacific Northwest. Specifically, the commercial buying and selling of artifacts is now understood as a driving force behind much of the archaeological site looting that occurs in this region. The enthusiasm for catching site looters in illegal holes is being replaced by the hard reality that successful cases often hinge on stringing obscure pieces of information together into a tangible case.

Through the ARPA Task Force, Region 6 is striving to make its cultural site protection efforts more systematic and coordinated. How well the Region is doing can be partly measured by the number of successful antiquities prosecutions, including indictments under ARPA and other federal statutes and citations under general Forest Service regulations. At this early stage, convictions far outweigh defeats. Further, the investigatory focus on several eastern Oregon National Forests (Deschutes and Wallowa-Whitman NF's) has expanded to adjoining Forest units, suggesting that the information contained in this volume will soon be outdated with new casework, analyses, direction and recommendations. Ultimately, these data will serve the Region 6 goal of implementing a strong site protection program that relies on the cooperative efforts of other federal agencies, local law enforcement offices, and American Indian tribes.

In closing, perhaps the greatest stumbling block to achieving this goal is the problem of case recognition and pursuit at the field level. If not treated seriously by archaeologist, law enforcement officer and land manager alike, an informant's vague lead about a stolen artifact collection, or evidence of looting of a known site, will never lead to an arrest or citation under ARPA or any other antiquities legislation. If pursuing antiquities violation leads, documenting damaged archaeological sites, and actively monitoring the identified resource base remains secondary to "compliance" and other cultural resource work, then archaeological sites will continue to be looted, despite our best efforts in the arena of public education. If ARPA cases are not aggressively investigated at the Ranger District and Forest levels, then the long-standing concerns about the viability of the ARPA law will be largely academic. Gaining confidence and competence in ARPA case recognition and development is not easy and requires familiarity with all manner of antiquities violations in the Pacific Northwest. It is to this purpose that this report has been dedicated.

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APPENDIX A
Region 6 Site Protection Plan
1988

By
Carl M. Davis
and
James D. Keyser

Cultural Resource Site Protection Plan
USDA Forest Service
Pacific Northwest Region

Introduction

Following a decade of intensive cultural resource inventory on National Forests in Oregon and Washington, federal land managers now face the difficult task of protecting this vast and fragile resource base from a variety of natural and human forces. Geological processes such as erosion and chemical weathering, in combination with the passage of time, create one kind of cultural site protection and preservation problem. Another kind includes the agency's own resource management activities such as timber harvesting and road construction. Artifact theft, site looting, vandalism and defacement is a third kind of activity which poses great harm to cultural resources.

Until recently, little qualitative or quantitative data were available on an individual Forest or Regional level about the individual or cumulative effects of any of these natural or human-caused activities on cultural resources. Any information was, at best, impressionistic and based on a few popularized examples of site destruction or depredation. In fact, most site "monitoring" was done sporadically as time and field conditions allowed, usually during post-harvest and re-entry cultural resource surveys. A handful of especially important, unique or accessible sites (e.g., rockshelters, pithouse villages, rock art sites) have been regularly checked over the years on most Forests but many other sites have not been re-visited by professional archaeologists since their initial recording.

Today, most National Forests are at the point where an ever-expanding testing, evaluation, interpretation and management workload now require at least a qualitative, if not quantitative, feel for the total resource base. Cultural site monitoring plans and provisions in draft or recently completed Forest Plans now require land managers to account for and take measures to actively protect identified cultural resource sites. Finally, legal proceedings surrounding Forest Service land management decisions (e.g., timber sale appeals) and artifact theft ("ARPA") cases are now requiring that better data about the numbers, kinds and condition of cultural resource sites be readily available to Forest managers and the concerned public.

In light of the above concerns, Region 6 is initiating a cultural site protection program to survey and monitor the condition of cultural resource sites on select Forests in the Region which have been subject to site looting and artifact theft. The program is primarily focused on Forests (e.g., Deschutes, Wallowa-Whitman, Umpqua) where site artifact theft and looting is especially prevalent but it has general application to all Forests. This program is the initial step in an effort to provide broad-scale protection to cultural sites located on every National Forest in Region 6.

Strategy

This site protection program is divided into three Phases, each of which includes a specific work agenda. The phases are multi-year and tiered. A work agenda for each phase is described below; individual Forests may need to add or delete some work elements as time and budget allow. It is left to the individual Forest's discretion whether to complete the various work phases with agency personnel or to contract for these services.

Phases

Phase I: Data Gathering

This baseline phase includes review and documentation of all cultural sites on the Forest where site disturbance, vandalism, or looting is known or suspected. This review and documentation should include:

1. Data base (site file) review to identify all sites where looting, defacement or destruction has been documented.
2. A review of any "tickler" forms, archaeological (professional and "pothunter") literature, maps, and other written information which may indicate the location of looted sites on the Forest.
3. Interviews with Forest Service employees who have knowledge of cultural sites which have been looted or vandalized in the past or are being currently dug/collected. This information may help establish the chronology of destruction/digging at many sites, despite the fact that the excavations may have occurred earlier than the 1970's.
4. Interviews with Forest Service Special Agents and other law enforcement personnel to determine their involvement with cultural resource law enforcement over the years (if any) and, especially, to determine and document if any "Notice of Violation" or Warning citations have been given to anyone concerning artifact theft, collecting etc.
5. Where possible, interviews with local publics (e.g., local county museums or historical society members) who work closely with the Forest Service and who may have knowledge of particular sites and any chronology of site digging/collecting.

The accumulation and review of the above data should lead to the following:

1. A large scale (fire) map of the Forest showing the locations of all known damaged sites.
2. A tally of the exact number of sites which have been damaged and, to a lesser extent, information about quantity and kind.
3. Photographs and slides of verified site damage from the Forest.
4. An information base about the history and nature of artifact theft in the local area, names of potential field informants, names of prominent collectors and site diggers, location of artifacts and collections etc.

Phase II: Field Work

The second phase involves actual field work and should be accomplished during the same Fiscal Year as Phase I, if possible. Work items for Phase II include:

1. Perform a "condition check" of all known damaged sites (as identified in Phase I and Phase II 2. below). If the number of damaged sites identified during Phase I is small, it should be possible to visit all sites during one field season. If the number of damaged sites is large, however, this field checking may require several field seasons and depend upon a systematic sampling strategy to cover them all. The site sample should be drawn scientifically and might include both a "random" and "non-random" (especially important or unique sites) sample. A sampling strategy would insure that the results of the first field season of condition checking would produce quantitative (statistical) results that may be applicable to the Forest at-large and which could be tested in subsequent field seasons.

Fieldwork associated with the site "condition check" should include:

- A. Basic site recordation: up-dating site information and mapping (e.g., a simple planimetric map).

B. Recordation of extent of site damage as per the date of the field check. This should include documenting the horizontal and vertical dimensions of all illegal excavation holes, noting their exact location on planimetric maps, documenting misplaced artifacts, garbage, illegal digging equipment etc. Documentation includes written description and photographs.

C. Estimation of probable age of site damage (e.g., within the last several years, more than 5 years old, more than 10). Site damage estimates are obviously "best estimates" but should be consistently applied from site to site. Slumping and compaction of back-dirt piles, weathered illegal digging equipment, and other observations should be used to make the estimate.

2. In addition to the "condition check" of all known damaged sites, Forests should conduct a focused inventory of all areas known to have high potential for damaged cultural sites. These areas can be defined by District and Forest Archaeologists. They should primarily be focused along major waterways, terraces, cliffs and features where cultural resources are concentrated. Since this will likely be only a sample survey, the sample should again be drawn in a valid fashion, with attention paid to random and non-random sampling strategies. All site damage should be recorded as described above.

It is important that this type of survey is not focused on covering land areas (as are our project or "compliance" surveys) but rather on locating highly vulnerable cultural resource sites.

3. Results of both the site "condition check" and the inventory of high potential areas should be documented in a report upon completion. Site condition data should be included with the site form in the filing (and computer) data base. A field report should be prepared showing any new areas surveyed, sites found, etc. Based on these data, a site monitoring program should be immediately established to periodically monitor the most vulnerable and endangered sites.

4. A large scale map should be prepared to compliment the map described in Phase I (1.) which compares the pre-field research with the results of the condition check or "ground truthing". Map symbols might be used to visually describe the amount of damage at each site (e.g., red dot = completely destroyed; green dot = 1/2 destroyed, etc).

Phase III: Site Protection

The results of Phase I and II should lead directly into a work program to protect, rehabilitate and recover data from sites badly damaged by artifact theft and looting. Although funding for Phases I and II is primarily from the regular (NFRM AC) budget, funding for Phase III will probably require special budgetary emphasis and allocation (NFRM AC/AGO etc). It is also likely that these efforts will be multi-year (e.g., the rehabilitation or data recovery of a badly damaged pithouse village). Work during this phase includes:

1. Establishing a protection program to monitor and patrol highly endangered or vulnerable cultural sites. This would include placement of radio/sound monitors, cameras, and other sensing devices, aerial patrols etc. This program will require complete support of the Forest Management Team and Ranger District Staff and must be closely integrated with Law Enforcement.

2. Establishing a multi-year program to complete site rehabilitation at damaged sites. This may include backfilling of looted pithouses, replacing ground cover at lithic scatters, etc. All rehabilitation work should be closely integrated with other District resource management activities to make sure it is appropriate for the area and Forest site.

3. Establishing a multi-year program to complete data recovery at damaged or highly endangered sites. Such data recovery efforts will follow formal compliance procedures (e.g., review of the data recovery plan by the SHPO and ACHP) and should not be undertaken on an *ad hoc* and piece-meal basis as the need arises since such efforts may only yield unsystematic and un-reported results. Again, the need to have this potentially costly workload incorporated into out-year planning and budgeting cannot be over-emphasized.

4. Incorporating site protection efforts into the larger cultural resource interpretation and public education program being developed by the Forest. Opportunities to incorporate the site protection message into extant and planned interpretative signing, displays, brochures and other media should not be overlooked.

5. Developing an internal and external "public outreach" program (beyond the interpretative effort) that delivers the site protection message. Currently, the Region has an "ARPA" traveling display, a brochure, and a videotape describing the site protection effort in this Region. A variety of written materials are available which discuss the problem in the Pacific Northwest and elsewhere. Finally, a handful of people in this Region who are very knowledgeable about this problem are available to give both presentations and training to Forest personnel. These resources and tools are accessible to those in the process of developing a public outreach program.

6. Develop common understanding of the problem through interactive alliances with local preservationists (e.g., County Historical Societies) and American Indian tribes. Tribal cooperation is not only required by existing cultural resource laws but also helps to focus public attention on the cultural and humanistic concern for preserving an ancient and fragile resource base.

In summary, the key to this Region's cultural resource site protection program is planning and integration. For example, it does little good to perform a "condition check" of known cultural sites without first contacting District employees and informants about the sites they know about and any past history of site damage and looting. Developing a site monitoring program (including surveillance and sensors) without the full involvement of Forest law enforcement makes little sense. A data recovery or rehabilitation program without proper out-year planning and budgeting is doomed to failure. Therefore, a systematic plan, as outlined above, is necessary to insure integration and success in the most critical area of cultural resource management.

